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ADOBE SYSTEMS INCORPORATED,
AUTODESK, INC., COREL CORPORATION,
MICROSOFT CORPORATION, and QUARK, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ADOBE SYSTEMS INCORPORATED,
a Delaware corporation, AUTODESK,
INC., a Delaware corporation, COREL
CORPORATION, a Canadian corporation,
MICROSOFT CORPORATION, a
Washington corporation, and QUARK,
INC., a Colorado corporation,

Plaintiffs,

v.

RUBEN MUNGUIA, an individual, doing
business as RIGOR MORTIS RECORDS,
LORETTA MORALES, an individual, and
DOES 1-10, inclusive,

Defendants.

CASE NO.

COMPLAINT FOR COPYRIGHT
INFRINGEMENT, DAMAGES AND
INJUNCTIVE RELIEF

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1 Plaintiffs Adobe Systems Incorporated (“Adobe”), Autodesk, Inc. (“Autodesk”), Corel
 2 Corporation (“Corel”), Microsoft Corporation (“Microsoft”), and Quark, Inc. (“Quark”), referred
 3 to collectively hereinafter as “Plaintiffs,” for their complaint against defendants, state and allege
 4 as follows:

5 **JURISDICTION AND VENUE**

6 **Parties**

7 1. Adobe is a Delaware corporation with its principal place of business in San Jose,
 8 California.

9 2. Autodesk is a California corporation with its principal place of business in San
 10 Rafael, California.

11 3. Corel is a Canadian corporation with its principal place of business in Ottawa,
 12 Ontario, Canada, and offices in Fremont, California.

13 4. Microsoft is a Washington corporation with its principal place of business in
 14 Redmond, Washington, and offices in San Francisco, California.

15 5. Quark is a Colorado corporation with its principal place of business in Denver,
 16 Colorado, and offices in Santa Clara, California.

17 6. Upon information and belief, Plaintiffs allege that defendants Ruben Munguia,
 18 doing business as Rigor Mortis Records, (“Munguia”) and Loretta Morales (“Morales”) are
 19 individuals whose places of residence are in Texas, and who do business using the Internet.

20 7. Upon information and belief, Plaintiffs allege that defendants named herein as
 21 Does 1-10, inclusive (referred to collectively hereinafter as the “Does”) are either entities or
 22 individuals subject to the jurisdiction of this Court. The true names and capacities, whether
 23 individual, corporate, associate, or otherwise, of the Does are unknown to Plaintiffs, who
 24 therefore sue the Does, and each of them, by such fictitious names, and Plaintiffs will seek leave
 25 of the Court to amend this Complaint to allege such true names and capacities when the same are
 26 ascertained. Munguia, Morales, and the Does are referred to collectively hereinafter as
 27 “Defendants.”

28 8. Upon information and belief, Plaintiffs allege each of the Defendants was an

1 agent, employee, and/or alter-ego of each of the other remaining Defendants and, at all times
2 relevant herein, acted within the course and scope of such agency and employment.

3 Jurisdiction

4 9. This case is a civil action arising under the copyright laws of the United States, 17
5 U.S.C. § 101, *et seq.* (the "Copyright Act"). This Court has subject matter jurisdiction over
6 Plaintiffs' claims pursuant to 17 U.S.C. § 501, *et seq.*, 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

7 Venue

8 10. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and 1400(a).

9 Intradistrict Assignment

10 11. Because this matter is an Intellectual Property Action, there is no basis for
11 assignment to a particular location or division of the Court pursuant to Civil L.R. 3-2(c).

12 GENERAL ALLEGATIONS

13 Introduction

14 12. Plaintiffs are in the business of, and have made and continue to make a substantial
15 investment of time, effort and expense in, designing, developing, testing, manufacturing,
16 publishing, marketing, distributing, and licensing a wide variety of computer software programs
17 recorded on various media, including among others optical discs, for use on personal computers.

18 Plaintiffs have gained a worldwide reputation for quality and reliability respecting their computer
19 software programs.

20 13. Widespread sales of illegal copies of Plaintiffs' computer software programs,
21 commonly known as software piracy, cause significant harm to Plaintiffs and undermine
22 Plaintiffs' investments in their products.

23 14. Plaintiffs bring this action as a result of Defendants' systematic, unauthorized
24 copying, reproduction, and distribution of Plaintiffs' software products through sales conducted
25 over the Internet, including via the trading website accessible through the domain name
26 iOffer.com (the "iOffer website"). Defendants' actions complained of herein were and continue
27 to be undertaken willfully and intentionally and have caused and continue to cause substantial
28 damage to Plaintiffs and to the software industry.

15. In connection with Plaintiffs' computer software programs, Plaintiffs own copyrights that are the subject of registrations with the United States Copyright Office.

16. Plaintiffs are informed and believe and thereon allege that, without authorization, Munguia and Morales, with assistance, supervision, support, and/or supplies received from the Does, have copied, reproduced, offered for sale, sold, and/or distributed unauthorized copies of Plaintiffs' copyrighted computer software programs.

17. Defendants' actions complained of herein constitute willful violation of Plaintiffs' rights under the Copyright Act. Plaintiffs request the Court enter an injunction against Defendants and award Plaintiffs damages, costs, and attorney's fees.

The Business of Adobe

18. Adobe is in the business of developing, marketing, and licensing a wide variety of computer software programs, including, but not limited to, Adobe® Creative Suite® 3 Design Premium software, which is a suite of numerous component software products, including Adobe® Acrobat® 8 Professional software, Adobe® Acrobat® Connect software, Adobe® Dreamweaver® CS3 Professional software, Adobe® Flash® CS3 Professional software, Adobe® Illustrator® CS3 software, Adobe® InDesign® CS3 software, Adobe® Photoshop® CS3 software, and Adobe® VersionCue® CS3 SDK software (referred to collectively hereinafter as the "Adobe Products").

19. The Adobe Products contain a large amount of material wholly original with Adobe and are copyrightable subject matter under the laws of the United States.

20. At all times herein relevant, Adobe complied in all respects with the Copyright Act, secured the exclusive rights and privileges in and to the copyrights in the Adobe Products, and possessed Certificates of Registration from the Register of Copyrights for the Adobe Products (see Exhibit A hereto, incorporated herein by reference).

21. Since their registration, the Adobe Products have been published and distributed by Adobe or under its authority in compliance with the Copyright Act.

22. Adobe has not authorized Defendants to copy, reproduce, duplicate, disseminate, or distribute the Adobe Products.

The Business of Autodesk

23. Autodesk is in the business of developing, marketing, and licensing a wide variety of computer software programs, including, but not limited to, AutoCAD® 2008 software (referred to hereinafter as the “Autodesk Product”).

24. The Autodesk Product contains a large amount of material wholly original with Autodesk and is copyrightable subject matter under the laws of the United States.

25. At all times herein relevant, Autodesk complied in all respects with the Copyright Act, secured the exclusive rights and privileges in and to the copyright in the Autodesk Product, and possessed a Certificate of Registration from the Register of Copyrights for the Autodesk Product (see Exhibit B hereto, incorporated herein by reference).

26. Since its registration, the Autodesk Product has been published and distributed by Autodesk or under its authority in compliance with the provisions of the Copyright Act.

27. Autodesk has not authorized Defendants to copy, reproduce, duplicate, disseminate, or distribute the Autodesk Product.

The Business of Corel

28. Corel is in the business of developing, marketing, and licensing a wide variety of computer software programs, including, but not limited to, CorelDRAW® Graphics Suite X4 software, which is a suite of component software products, including, but not limited to, Corel PHOTO-PAINT® X4 software (referred to collectively hereinafter as the “Corel Products”).

29. The Corel Products contain a large amount of material wholly original with Corel and are copyrightable subject matter under the laws of the United States.

30. At all times herein relevant, Corel complied in all respects with the Copyright Act, secured the exclusive rights and privileges in and to the copyright in the Corel Products, and possessed Certificates of Registration from the Register of Copyrights for the Corel Products (see Exhibit C hereto, incorporated herein by reference).

31. Since their registration, the Corel Products have been published and distributed by Corel or under its authority in compliance with the provisions of the Copyright Act.

32. Corel has not authorized Defendants to copy, reproduce, duplicate, disseminate, or

1 distribute the Corel Products.

2 **The Business of Microsoft**

3 33. Microsoft is in the business of developing, marketing, and licensing a wide variety
4 of computer software programs, including, but not limited to, Microsoft® Office 2007 software,
5 which is a suite of numerous component software products, including Microsoft® Office Access®
6 2007 software, Microsoft® Office Excel 2007 software, Microsoft® Office Outlook® 2007
7 software, Microsoft® Office PowerPoint® 2007 software, Microsoft® Office Publisher 2007
8 software, and Microsoft® Office Word 2007 software (referred to collectively hereinafter as the
9 “Microsoft Products”).

10 34. The Microsoft Products contain a large amount of material wholly original with
11 Microsoft and are copyrightable subject matter under the laws of the United States.

12 35. At all times herein relevant, Microsoft complied in all respects with the Copyright
13 Act, secured the exclusive rights and privileges in and to the copyrights in the Microsoft Products,
14 and possessed Certificates of Registration from the Register of Copyrights for the Microsoft
15 Products (see Exhibit D hereto, incorporated herein by reference).

16 36. Since their registration, the Microsoft Products have been published and
17 distributed by Microsoft or under its authority in compliance with the provisions of the Copyright
18 Act.

19 37. Microsoft has not authorized Defendants to copy, reproduce, duplicate,
20 disseminate, or distribute the Microsoft Products.

21 **The Business of Quark**

22 38. Quark is in the business of developing, marketing, and licensing a wide variety of
23 computer software programs, including, but not limited to, QuarkXPress® 7 software (referred to
24 hereinafter as the “Quark Product”).

25 39. The Quark Product contains a large amount of material wholly original with
26 Microsoft and is copyrightable subject matter under the laws of the United States.

27 40. At all times herein relevant, Quark complied in all respects with the Copyright
28 Act, secured the exclusive rights and privileges in and to the copyrights in the Quark Product, and

1 possessed a Certificate of Registration from the Register of Copyrights which covers the Quark
2 Product (see Exhibit E hereto, incorporated herein by reference).

3 41. Since its registration, the Quark Product has been published and distributed by
4 Quark or under its authority in compliance with the provisions of the Copyright Act.

5 42. Quark has not authorized Defendants to copy, reproduce, duplicate, disseminate,
6 or distribute the Quark Product.

7 **The Business and Infringing Activities of Defendants**

8 43. Plaintiffs are informed and believe and thereon allege that Defendants use the
9 Internet, including without limitation, the iOffer website, to advertise, sell, and distribute
10 products, including illegal copies of computer software products, to consumers throughout the
11 United States.

12 44. The iOffer website describes itself as a trading community for buying, selling, and
13 trading, with more than 20 million items available from 165 countries. The iOffer website
14 provides as the contact information for its owner(s) and/or operator(s) an address in San
15 Francisco, California in the Northern District of California. Plaintiffs are informed and believe
16 and thereon allege that Defendants are required to pay fees to the owner(s) and/or operator(s) of
17 the iOffer website to sell items through the iOffer website.

18 45. Plaintiffs are informed and believe and thereon allege that Munguia and Morales,
19 with assistance, supervision, support, and/or supplies received from the Does, do business
20 through the iOffer website under various user IDs, including, without limitation, the user IDs
21 "metalmayhem" and "lorlynmor."

22 46. Plaintiffs are informed and believe and thereon allege that Defendants have used
23 the Internet, including without limitation the iOffer website, to advertise, offer for sale, sell, and
24 distribute unauthorized copies, or copies of unauthorized derivative works, of the Adobe
25 Products, the Autodesk Product, the Corel Products, the Microsoft Products, and the Quark
26 Product (referred to collectively hereinafter as the "Computer Software Products") to consumers
27 throughout the United States, including in California. Plaintiffs are informed and believe and
28 thereon allege that Defendants or their agents made such unauthorized copies of the Computer

1 Software Products.

2 47. Plaintiffs are informed and believe and thereon allege that Defendants have
3 engaged willfully and intentionally in the conduct complained of above.

4 **FIRST CLAIM FOR RELIEF**

5 **(Copyright Infringement Against All Defendants)**

6 48. Plaintiffs re-allege and incorporate herein by this reference each of the allegations
7 contained in Paragraphs 1 through 47 as though fully set forth.

8 49. Defendants' acts constitute infringement of Plaintiffs' copyrights in the Computer
9 Software Products in violation of the Copyright Act, 17 U.S.C. § 501.

10 50. Plaintiffs are informed and believe and thereon allege that Defendants'
11 unauthorized copying, reproduction, and distribution of the Computer Software Products was
12 deliberate, willful, malicious, oppressive, and without regard to the Plaintiffs' proprietary rights.

13 51. Defendants' copyright infringement has caused, and will continue to cause,
14 Plaintiffs to suffer substantial injuries, loss and damage to their proprietary and exclusive rights
15 to, and copyrights in, the Computer Software Products and, further, has damaged Plaintiffs'
16 business reputations and goodwill, diverted Plaintiffs' trade, and caused Plaintiffs to lose profits,
17 all in an amount not yet ascertained.

18 52. Defendants' copyright infringement, and the threat of continuing infringement by
19 Defendants, have caused, and will continue to cause, Plaintiffs to suffer repeated and irreparable
20 injury. It would be difficult to ascertain the amount of money damages that would afford
21 Plaintiffs adequate relief at law for Defendants' continuing acts, and a multiplicity of judicial
22 proceedings would be required. Plaintiffs' remedy at law is not adequate to compensate Plaintiffs
23 for the injuries already inflicted and further threatened by Defendants. Therefore, Defendants
24 should be restrained and enjoined pursuant to the Copyright Act.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiffs seek relief as follows:

27 1. That, upon motion, the Court issue a preliminary injunction enjoining and
28 restraining Defendants, and each of them, and their respective agents, servants, employees,

1 successors and assigns, and all other persons acting in concert or conspiracy with Defendants or
 2 affiliated with Defendants, from:

3 (a) Copying, reproducing, distributing, or using any unauthorized copies of
 4 Plaintiffs' copyrighted computer software programs;

5 (b) Otherwise infringing any of Plaintiffs' copyrights; and

6 (c) Destroying any copies of software products, materials, or documents,
 7 including without limitation electronic files or business records, that relate or pertain to:

8 (i) The copying, reproduction, advertisement, offering for sale, sale,
 9 distribution, or use of Plaintiffs' computer software programs; or

10 (ii) The infringement of Plaintiffs' copyrights.

11 2. That the Court issue a permanent injunction making permanent the orders
 12 requested in paragraphs 1(a) and (b) of this Prayer for Relief;

13 3. That Plaintiffs be awarded for Defendants' copyright infringement either:
 14 (a) actual damages in an amount to be determined at trial, together with the profits derived from
 15 Defendants' unlawful infringement of Plaintiffs' copyrighted Computer Software Products; or
 16 (b) statutory damages for each act of infringement in an amount provided by law, as set forth in
 17 17 U.S.C. § 504, at Plaintiffs' election before the entry of a final judgment;;

18 4. That the Court issue an order requiring Defendants to file with this Court and serve
 19 on Plaintiffs within thirty (30) days after service of an injunction a report, in writing, under oath,
 20 setting forth in detail the manner and form in which Defendants have complied with the
 21 injunction;

22 5. That the Court issue an order upon judgment requiring Defendants to destroy any
 23 and all infringing copies of Plaintiffs' computer software programs in Defendants' possession or
 24 control;

25 6. That the Court award Plaintiffs their reasonable attorney's fees pursuant to 17
 26 U.S.C. § 505;

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1 7. That the Court award Plaintiffs their costs of suit incurred herein; and

2 8. That the Court grant such other and further relief as it deems just and proper.

3 Dated: October th27, 2008

DONAHUE GALLAGHER WOODS LLP

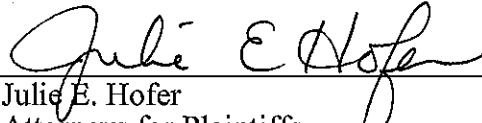
4
5 By: 
6 Julie E. Hofer
7 Attorneys for Plaintiffs
8 ADOBE SYSTEMS INCORPORATED,
9 AUTODESK, INC., COREL CORPORATION,
10 MICROSOFT CORPORATION, and
11 QUARK, INC.

EXHIBIT A

EXHIBIT A
Adobe Systems Incorporated
Copyright Registrations

Copyrights	Registration No.	Registration Date
Adobe Creative Suite 3 Design Premium for Windows and Macintosh	TX 6-531-657	6/25/2007
Adobe® Acrobat® 8 Professional for Macintosh	TX 6-390-830	11/16/2006
Adobe® Acrobat® 8 Professional for Windows	TX 6-390-827	11/16/2006
Adobe® Acrobat® Connect	TX-6-390-835 (1.0 for Windows) TX-6-390-834 (1.0 for Mac)	11/16/2006
Adobe® Dreamweaver® CS3 Professional for Windows and Macintosh	TX 6-534-561	6/15/2007
Adobe® Flash® CS3 Professional for Windows and Macintosh	TX 6-531-604	6/13/2007
Adobe® Illustrator® CS3 for Windows and Macintosh	TX 6-531-603	6/13/2007
Adobe® InDesign® CS3 for Windows and Macintosh	TX 6-528-610	5/22/2007
Adobe® Photoshop® CS3 Extended for Windows and Macintosh	TX 6-528-612	5/22/2007
Adobe® Version Cue® CS3 SDK for Windows and Macintosh	TX-6-534-547	8/2/2007

EXHIBIT B

EXHIBIT B
Autodesk, Inc.
Copyright Registration

Copyrights	Registration No.	Registration Date
AutoCAD® 2008	TX 6-576-172	5/18/07

EXHIBIT C

EXHIBIT C
Corel Corporation
Copyright Registrations

Copyrights	Registration No.	Registration Date
CorelDRAW [®] Graphics Suite X4	TX 6-846-020	2/29/08
Corel Photo-Paint [®] 9	TX 5-143-739	7/28/00

EXHIBIT D

EXHIBIT D
Microsoft Corporation
Copyright Registrations

Copyrights	Registration No.	Registration Date
Microsoft® Office Ultimate 2007	TX 5-504-552	2/26/2007
Microsoft® Office Access® 2007	TX 6-524-395	3/30/2007
Microsoft® Office Excel 2007	TX 6-524-399	3/30/2007
Microsoft® Office Outlook® 2007	TX 6-524-393	3/30/2007
Microsoft® Office PowerPoint® 2007	TX 6-524-389	3/30/2007
Microsoft® Office Publisher 2007	TX 6-524-388	3/30/2007
Microsoft® Office Word 2007	TX 6-524-398	3/30/2007

EXHIBIT E

EXHIBIT E
Quark, Inc.
Copyright Registration

Copyrights	Registration No.	Registration Date
Quark Xpress® 7.1	TX 6-538-373	3/21/2007